28. (Amended) A pharmaceutical preparation for promoting the survival or growth of mammalian neural cells, wherein said cells express an OP/BMP-activated serine/theronine kinase receptor and a GDNF/NGF-activated tyrosine kinase receptor, comprising:

(a) a GDNF/NGF neurotrophic factor, and

(b) an OP/BMP morphogen.

29. (Amended) A pharmaceutical preparation for inhibiting the death or degeneration of mammalian neural cells, wherein said cells express an OP/BMP-activated serine/theronine kinase receptor and a GDNF/NGF-activated tyrosine kinase receptor, comprising:

(a) a GDNF/NGF neurotrophic factor, and

(b) an OP/BMP morphogen.

REMARKS

In the Office Action of July 5, 2001, claims 1-29 were subject to restriction under 35 U.S.C. 121 and 35 U.S.C 372. The Examiner has contended that claims 1-29 can be subdivided into eight distinct groups of inventions. In addition, the Examiner has also contended that these Groups do not form a single inventive concept under PCT Rule 13.1 since they lack the same or corresponding special technical features under PCT Rule 13.2.

In response to the Office Action, claims 1, 11-23 and 28-29 (the Group I claims), have been amended to include the features of claim 24 (the Group V claim). These features include the expression of OP/BMP-activated serine/theronine kinase receptor and GDNF/NGF-activated tyrosine kinase receptor. Accordingly, as amended, applicants respectfully submit that the Group I claims and the Group V claim now define essentially the same invention, since these groups incorporate essentially the same technical features. On this basis, applicant hereby elects the invention of Group I for further prosecution on the merits, with the expectation that the Group V claim (claim 24) will be included along with the elected invention in the same grouping.

For the record, applicants disagree with the restriction requirement and believe that all Groups should be examined together. Applicants note that the subject matter is closely related, and there is no indication that a search for on e group will not retrieve relevant prior art for the other groups. Accordingly, this election is made with traverse.

The Examiner has also required applicants to elect certain species of the generic invention embodied in generic claims 1-2 and 24-29 under PCT Rules 13.1 and 13.2. These species include damage or injury, neuropathic disease, neural cells, OP/BMP morphogen C terminal six- or seven- cysteine domain of a mammalian protein, and GDNF/NGF neurotrophic factor that comprises a functional form of a protein.

The Examiner further states that an election of the Group I-VIII claims requires applicants to elect a species from the neural cell group, a species from the OP/BMP morphogen mammalian protein group, and a species from the GDNF/NGF functional form group.

Accordingly, applicants hereby elect, for examination purposes only, the following species: peripheral nervous system cells, OP-1, and GDNF. Claims 1, 24, 28 and 29 are generic, and all claims, except claim 12, are readable on the elected species. As indicated in the Office Action, the allowance of the non-elected claims should follow from the allowance of the elected species.

In view of the foregoing facts and reasons, prompt action on the merits of this application is respectfully solicited.

Respectfully submitted,

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DATE:

MARKED-UP CLAIMS

1. (Amended) A method for promoting survival or growth of mammalian neural cells, wherein said cells express an OP/BMP-activated serine/theronine kinase receptor and a GDNF/NGF-activated tyrosine kinase receptor, comprising:
contacting neural cells with a preparation comprising

(a) an OP/BMP morphogen [a morphogen comprising a dimeric protein] having an amino acid sequence with at least 70% homology with the C-terminal seven cysteine skeleton of human OP-1, and

(b) a GDNF/NGF neuroptrophic factor.

15. (Amended) A method as in claim 1 [claim 14] wherein said OP/BMP morphogen comprises an amino acid sequence having at least 80% homology with the C-terminal seven-cysteine domain of human OP-1.

16. (Amended) A method as in claim 1 [claim 14] wherein said OP/BMP morphogen comprises an amino acid sequence having at least 60% amino acid identity with the C-terminal seven-cysteine domain of human OP-1.

17. (Amended) A method as in claim 1 [claim 14] wherein said OP/BMP morphogen comprises an amino acid sequence having at least 70% amino acid identity with the C-terminal seven-cysteine domain of human OP-1.

18. (Amended) A method as in claim 1 [claim 14] wherein said OP/BMP morphogen comprises at least the C-terminal six- or seven-cysteine domain of a mammalian protein selected from the group consisting of OP-1, OP-2, OP-3, BMP2, BMP3, BMP4, BMP5, BMP6 and BMP9.

19. (Amended) A method as in any of claims1-4 wherein the effective concentration of the preparation is between 0.1 ng/ml and 10 μg/ml of said OP/BMP morphogen and between 0.1 ng/ml and 10 μg/ml of said GDNF/NGF neurotrophic factor.

28. (Amended) A pharmaceutical preparation for promoting the survival or growth of mammalian neural cells, wherein said cells express an OP/BMP-activated serine/theronine kinase receptor and a GDNF/NGF-activated tyrosine kinase receptor, comprising:

(a) a GDNF/NGF neurotrophic factor, and

(b) an OP/BMP morphogen.

29. (Amended) A pharmaceutical preparation for inhibiting the death or degeneration of mammalian neural cells, wherein said cells express an OP/BMP-activated serine/theronine kinase receptor and a GDNF/NGF-activated tyrosine kinase receptor, comprising:

(a) a GDNF/NGF neurotrophic factor, and

(b) an OP/BMP morphogen.